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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,467	02/12/2004	Jochen Hofmann	51900/DBP/M521	5554
23363	7590	09/08/2005	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			EDELL, JOSEPH F	
PO BOX 7068			ART UNIT	
PASADENA, CA 91109-7068			PAPER NUMBER	
			3636	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/779,467	Applicant(s) HOFMANN ET AL.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 4, 6, 8, 9, 13 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7, 10-12, 14-27 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/18/04-6/23/05</u> | 6) <input type="checkbox"/> Other: _____  |

*Handwritten signature/initials*

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Specie VIII, Figures 5A and 7, in the reply filed on 20 June 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 4, 6, 8, 9, 13, and 28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim.

### ***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month and year of its filing.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "31a" (Fig. 5A) and "52" (Fig. 7) have both been used to

designate the protrusion. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 61. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

5. Claims 10, 19, and 29 are objected to because of the following informalities:

- a. claim 10, line 5, "it" should read --the mounting element--;
- b. claim 19, line 4, "seat element" should read --the seat element--;
- c. claim 29, line 4, "other" should read --other.--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-3, 5, 10-12, 14, 16-18, 20, 21-24, 26, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,903,280 B2 to Selig et al.

Selig et al. disclose a seat that includes all the limitations recited in claims 1-3, 5, 10-12, 14, 16-18, 20, 21-26, and 27. Selig et al. shows a seat having a seat element (Fig. 2B) constituting a component of a seat structure and made up of a mounting angle attached to a part of the seat structure, a tubular drive element (see Fig. 8) pivotably connected to the seat element constituting a component of a displacement arrangement, a weight sensor 104 designed as an electrically operated sensor in two

Art Unit: 3636

parts 110,112 nonpivotably connected, a mounting section of the weight sensor that extends axially inside an element 118 nonpivotably connected thereto, a mounting element arranged on the tubular drive element, and a locking element wherein the tubular drive element is mounted on the seat element via the mounting section of the weight sensor, the mounting section serves for radial, pivotable mounting of the tubular drive element, the tubular drive element is pivotably mounted on the weight sensor through the mounting element, the mounting element is capable of being preassembled on the weight sensor using an axial locking element before connecting to the tubular drive element, a sensor part nonpivotably fixed to the seat element, and the tubular drive element and the weight sensor constitute a preassembled assembly that is capable of attaching to the seat element.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Selig et al.

Although the material connection of the tubular drive element and the mounting element is not specifically recited, modifying the material connection would have been obvious at the time of Applicant's invention because the use of preferred materials

Art Unit: 3636

discovered by routine experimentation is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the material connection of the tubular drive element and the mounting element since the Applicant has not disclosed that having the specific material connection solves any stated problem or is for any particular purpose and it appears that the connection of the tubular drive and the mounting element would perform equally well with an well known material used in the art.

10. Claims 15, 19, 25, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selig et al. in view of U.S. Publication No. 2003/0067196 A1 to Sakamoto et al.

Selig et al. disclose a seat that is basically that same as that recited in claims 15, 19, 25, and 29 except that the seat lack a lock nut and the tubular drive element lacks a transverse tube, as recited in the claims. Sakamoto et al. show a seat similar to that of Selig et al. wherein the tubular drive element 20b (Fig. 1) has a transverse tube 28 (Fig. 4) running from one longitudinal side of the seat to the other, and a locking nut 27a (Fig. 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat of Selig et al. such that the tubular drive element 20b has a transverse tube 28 running from one longitudinal side of the seat to the other, a lock nut for nonpivotable arrangement of the weight sensor on the seat element with toothed zones, i.e. threads, meshing with each other for mounting the tubular drive element on the mounting section, such as the seat disclosed in Sakamoto et al. One would have been motivated to make such a modification in view of the

Art Unit: 3636

suggestion in Sakamoto et al. that the transverse tube connects seat element spaced under the seat to maintain a predetermined width, and the lock nut and thread are used for securing connection of disparate pieces.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


The following patents are cited to further show the state of the art with respect to seats with weight sensors:

U.S. Pat. No. 6,039,344 to Mehney et al.      U.S. Pat. No. 6,069,325 to Aoki

U.S. Pat. No. 6,865,961 B2 to Wolf et al.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600



Application/Control Number: 10/779,467

Page 8

Art Unit: 3636

A handwritten signature in black ink, appearing to be 'JE', written over the text 'JE'.

JE

September 2, 2005